

**Questions and Answers Guidance for Davis-Bacon Act Implementation
All FFY 2010 State Revolving Loan Funding (SRF) & FFY 2011 SRF Projects Under the
Continuing Resolution Signed, September 30, 2010**

Question: If an assistance agreement was signed prior to October 30, 2009, does the assistance recipient have to comply with the Davis-Bacon Act requirements?

Answer: No.

Question: How can a potential assistance recipient (who did not sign an assistance agreement prior to October 30, 2009) comply with Davis-Bacon Act requirements if its project went out to bid **prior to** October 30, 2009 (the effective date of the policy) and the bidding period has not yet closed?

Answer: The potential assistance recipient may issue an addendum to the bid solicitation material notifying potential bidders of the need to include Davis-Bacon Act requirement wages in any proposal, or amend any proposal already submitted (subject to State and local laws and requirements).

Question: How can a potential assistance recipient (who did not sign an assistance agreement prior to October 30, 2009) comply with Davis-Bacon Act requirements if its project went out to bid **prior to** October 30, 2009 (the effective date of the policy) and the bidding period closed **prior to** October 30, 2009?

Answer: The potential assistance recipient may issue a change order to a contract after it is signed, or simultaneous to signature, that will require the contractor to comply with Davis-Bacon requirements, in accordance with State and local laws and requirements.**

Question: How can a potential assistance recipient (who did not sign an assistance agreement prior to October 30, 2009) comply with Davis-Bacon Act requirements if its project went out to bid **prior to** October 30, 2009 (the effective date of the policy) and the bidding period closed **prior to** October 30, 2009, and the construction contract was signed **prior to** October 30, 2009?

Answer: The potential assistance recipient may issue a change order to a contract after it is signed that will require the contractor to comply with Davis-Bacon requirements, in accordance with State and local laws and requirements.

Question: How can a potential assistance recipient (who did not sign an assistance agreement prior to October 30, 2009) comply with Davis-Bacon Act requirements if its project went out to bid **prior to** October 30, 2009 (the effective date of the policy) and the bidding period closed **after** October 30, 2009, but no construction contract has been signed?

Answer: The potential assistance recipient may issue a change order to a contract after it is signed, or simultaneous to signature, that will require the contractor to comply with Davis-Bacon requirements, in accordance with State and local laws and requirements.**

Question: How can a potential assistance recipient (who did not sign an assistance agreement prior to October 30, 2009) comply with Davis-Bacon Act requirements if its project went out to bid **prior to** October 30, 2009 (the effective date of the policy) and the bidding period closed **after** October 30, 2009, and the construction contract was signed **after** October 30, 2009?

Answer: The potential assistance recipient may issue a change order to a contract after it is signed that will require the contractor to comply with Davis-Bacon requirements, in accordance with State and local laws and requirements.

Question: How can a potential assistance recipient (who did not sign an assistance agreement prior to October 30, 2009) comply with Davis-Bacon Act requirements if its project went out to bid **prior to** October 30, 2009 (the effective date of the policy) and the bidding period closed **after** October 30, 2009, and the construction contract was signed **after** October 30, 2009?

Answer: The potential assistance recipient may issue a change order to a contract after it is signed that will require the contractor to comply with Davis-Bacon requirements, in accordance with State and local laws and requirements.

**** Please note that in a situation where a construction contract has not yet been signed, it may be necessary, in order to comply with State or local laws or requirements, for the assistance recipient to reopen the bidding process with an addendum to the bid solicitation material notifying potential bidders of the need to include Davis-Bacon Act requirement wages in any proposal, or amend any proposal already submitted.**